



General Assembly

Substitute Bill No. 412

February Session, 2012

* ____SB00412GL____050312____ *

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE
CONCERNING THE REGULATION OF EMBALMERS AND FUNERAL
SERVICE ESTABLISHMENTS AND CERTAIN PROFESSIONAL
BOARD AND COMMISSION HEARINGS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-200 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) For the purposes of this section and sections 42-201 to 42-206c,
4 inclusive, "funeral service contract" means a contract [which] that
5 requires the payment of money or the delivery of securities in
6 exchange for the final disposition of a dead human body, including
7 funeral, burial or other services, or the furnishing of personal property
8 or funeral merchandise in connection with any such disposition,
9 wherein the use or delivery of such services, property or merchandise
10 is not required immediately and is not delivered immediately,
11 "beneficiary" means the person for whom the goods or services
12 purchased in a funeral service contract are to be provided, and
13 "purchaser" means the person who signs the funeral service contract.

14 (b) Each funeral service establishment shall provide each person
15 who inquires in person about purchasing a funeral service contract
16 with a copy of the funeral service contract fact sheet prepared by the

17 Department of Consumer Protection and shall provide each purchaser
18 with a copy of such sheet prior to the purchaser's signing of a funeral
19 service contract.

20 [(b)] (c) A funeral service contract shall be in writing and shall
21 contain the following:

22 (1) The name, address, telephone number and Social Security
23 number of the beneficiary and the purchaser;

24 (2) The name, address, telephone number and license number of the
25 funeral director for the funeral service establishment providing the
26 goods or services;

27 (3) A list of the selected goods or services, if any;

28 (4) The amount of funds paid or to be paid by the purchaser for
29 such contract, the method of payment and a description of how such
30 funds will be invested and how such investments are limited to those
31 authorized pursuant to subsection (c) of section 42-202;

32 (5) A description of any price guarantees by the funeral service
33 establishment or, if there are no such guarantees, a specific statement
34 that the contract contains no guarantees on the price of the goods or
35 services contained in the contract;

36 (6) The name and address of the escrow agent designated to hold
37 the prepaid funeral services funds;

38 (7) A written representation, in clear and conspicuous type, that the
39 purchaser should receive a notice from the escrow agent
40 acknowledging receipt of the initial deposit not later than twenty-five
41 days after receipt of such deposit by a licensed funeral director;

42 (8) A description of any fees to be paid from the escrow account to
43 the escrow agent or any third party provider;

44 (9) A description of the ability of the purchaser or the beneficiary to

45 cancel a revocable funeral service contract and the effect of cancelling
46 such contract;

47 (10) For irrevocable contracts, a description of the ability of the
48 beneficiary to transfer such contract to another funeral home; and

49 (11) The signature of the purchaser or authorized representative and
50 the licensed funeral director of the funeral service establishment.

51 [(c)] (d) A funeral service establishment shall maintain a copy of all
52 funeral service contracts entered into or assigned to such establishment
53 and a list of each escrow account established pursuant to such
54 contracts. Such list shall include the name and address of the escrow
55 agent, the amount of funds deposited with such agent and the name
56 and address of the purchaser of the funeral services contract. Such
57 contracts shall be maintained by the funeral service establishment for a
58 period of six years after the completion of the contracted services. Such
59 establishment shall disclose such information, upon request, to the
60 Commissioner of Public Health, the Commissioner of Consumer
61 Protection or the Attorney General.

62 [(d)] (e) A funeral service establishment shall notify the purchaser of
63 each prepaid funeral contract with such establishment not later than
64 ten days after any transfer of more than a fifty per cent ownership
65 share of such establishment to another person or of the closure of such
66 establishment.

67 Sec. 2. (NEW) (Effective July 1, 2013) (a) The Commissioner of
68 Consumer Protection shall establish and maintain the Connecticut
69 Funeral Service Contract Guaranty Fund in accordance with the
70 provisions of this section.

71 (b) The Department of Public Health shall retain ten dollars from
72 each licensing fee or renewal fee received by the department pursuant
73 to section 20-213 or 20-217 of the general statutes, and shall transfer
74 such fees quarterly to the Commissioner of Consumer Protection for
75 deposit in the guaranty fund.

76 (c) Payments received under subsection (b) of this section shall be
77 credited to the guaranty fund. Money in the fund may be invested or
78 reinvested in the same manner as funds of the state employees
79 retirement system, and the interest derived from such investments
80 shall be credited to the guaranty fund.

81 (d) If a licensed funeral service establishment fails to deposit funds
82 received from a funeral service contract in an escrow account as
83 required by section 42-202 of the general statutes and refuses to honor
84 such contract, the purchaser or beneficiary, as such terms are defined
85 in section 42-200 of the general statutes, as amended by this act, upon
86 discovery of such failure, may apply to the Commissioner of
87 Consumer Protection for payment of such claim from the guaranty
88 fund.

89 (e) Purchasers or beneficiaries with a claim shall apply for payment
90 from the guaranty fund on forms prescribed by the Commissioner of
91 Consumer Protection. The application shall include the name and
92 address of the funeral service establishment, the date the contract was
93 entered into, the price of the contract, the amount and the basis of the
94 claim and a copy of the contract or other documentation accepted by
95 the commissioner and any other information required by the
96 commissioner.

97 (f) If, after examination of the application and an initial investigation
98 of the claim, the Commissioner of Consumer Protection determines
99 there is some factual basis to the claim that funds were not deposited
100 in an escrow account as required under section 42-202 of the general
101 statutes, and the funeral service establishment has refused to honor the
102 contract, the commissioner shall hold a hearing upon such application
103 in accordance with the provisions of chapter 54 of the general statutes.
104 Notwithstanding the provisions of chapter 54 of the general statutes,
105 the decision of the commissioner shall be final with respect to the
106 application. The commissioner may hear applications of all purchasers
107 or beneficiaries submitting claims against a single funeral service
108 establishment in one proceeding.

109 (g) After notice and a hearing, if the commissioner finds in favor of
110 the purchaser or beneficiary, the commissioner shall issue an order
111 requiring payment from the guaranty fund of any sum the
112 commissioner finds to be payable upon such application.

113 (h) If the commissioner pays any amount pursuant to an order
114 under subsection (g) of this section, the commissioner shall notify the
115 Department of Public Health of such payment and such funeral service
116 establishment shall not be eligible to receive a new or renewed license
117 from the Department of Public Health until it has repaid such amount
118 in full, plus interest at a rate to be determined by the Commissioner of
119 Consumer Protection.

120 (i) If the commissioner pays any amount as a result of a claim
121 against a funeral service establishment pursuant to an order under
122 subsection (g) of this section, the commissioner shall determine if the
123 funeral service establishment is possessed of real or personal property
124 or other assets, liable to be sold or applied in satisfaction of the claim
125 on such fund. Upon discovery of any such assets, the commissioner
126 may request the Attorney General to take any action necessary for the
127 realization thereof for the reimbursement of the guaranty fund.

128 (j) The commissioner may, in order to preserve the integrity of the
129 guaranty fund, order payments to be made out of said fund for
130 amounts less than the actual loss incurred by any purchaser or
131 beneficiary of a funeral service contract.

132 (k) When the commissioner has caused any sum to be paid from the
133 guaranty fund to a purchaser or beneficiary of a funeral service
134 contract, the commissioner shall be subrogated to all of the rights of
135 the purchaser or beneficiary up to the amount paid, and the purchaser
136 or beneficiary shall assign all rights, title and interest in the claim up to
137 such amount to the commissioner, and any amount and interest
138 recovered by the commissioner on the claim shall be deposited to the
139 guaranty fund.

140 (l) The commissioner may adopt regulations in accordance with

141 chapter 54 of the general statutes to carry out the purposes of this
142 section.

143 Sec. 3. Section 19a-10 of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective October 1, 2012*):

145 The boards and commissions listed in subsection (b) of section 19a-
146 14 may conduct hearings on any matter within their statutory
147 jurisdiction. Such hearings shall be conducted in accordance with
148 chapter 54 and the regulations established by the Commissioner of
149 Public Health. At least one public board or commission member and
150 one member, who is a member of the profession regulated by such
151 board or commission, shall preside at any such hearing. In connection
152 with any such hearing, any member of a board or commission, upon
153 being designated by the board or commission, may administer oaths,
154 issue subpoenas, compel testimony and order the production of books,
155 records and documents. If any person refuses to appear, to testify or to
156 produce any book, record or document when so ordered, a judge of
157 the Superior Court may make such order as may be appropriate to aid
158 in the enforcement of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2013</i>	42-200
Sec. 2	<i>July 1, 2013</i>	New section
Sec. 3	<i>October 1, 2012</i>	19a-10

PRI *Joint Favorable Subst. C/R* PH

PH *Joint Favorable*

APP *Joint Favorable*

GL *Joint Favorable*